DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0297-25**	**Applicant:**	**Donington Cowley Endowed Primary School**

Proposal: Proposed siting of log cabin building to be used as a reading room

Location: Cowley Endowed Primary School Town Dam Lane Donington

Terminal Date: 6th June 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the proposed siting of a log cabin building to be used as a reading room in conjunction with Cowley Endowed Primary School. Consent is sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The application site comprises land at Donington Cowley Endowed Primary School, Town Dam Lane, Donington. The building is proposed to be located on land to the south-east of the existing school buildings. There is a line of trees and residential development to the east of the site.

Planning History

H04-0868-90: (Full Application) Erect a one classroom extension - approved 30 August 1990

H04-0376-99: (Full Application) Erect single storey, single classroom extension - approved 21 May 1999

H04-0513-03: (Full Application) Extension to provide ICT room - approved 10 June 2003

H04-0595-17: (Full Application) Extension to school to form classroom, store, cloaks and toilets - approved 19 July 2017

Consultation

There is no statutory obligation for the Local Authority to publicise an application for a certificate of lawful development. A site notice has however been displayed next to the site for 21 days. No representations from members of the public have been received.

Key Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall
(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d)specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the local planning authority need to be provided with sufficient information to demonstrate that, on the balance of probability, the proposed development is lawful in planning terms and would not require full planning permission.

Assessment

The Town and Country Planning (General Permitted Development) Order (GPDO) (2015) (as amended) sets out permitted development rights for various forms of development. The applicant has not referred to any permitted development rights that they consider apply to allow for the installation of the proposals. Notwithstanding this, the local planning authority (LPA) considers that the most relevant permitted development right in this case is Class M (Schedule 2, Part 7). Class M allows for the "erection, extension or alteration of a school, college, university, prison or hospital building.

Para M.1 sets out the circumstances under which development is not permitted by Class M. This includes criteria a) to g). The proposals are assessed against these criteria below.

"(a) if the cumulative footprint of any erection, extension or alteration under Class M on or after the relevant date would exceed the greater of
(i) 25% of the cumulative footprint of the school, college, university, prison or hospital buildings as it was on the relevant date; or
(ii) 250 square metres;"

In this case, the "relevant date" means 21 April 2021. The local planning authority is not aware of any extensions that have been constructed within the site since 2021. The submitted floor plan indicates the years that various extensions have been constructed. The most recent extension was in 2018 for block 6. The application is not accompanied by accurately scaled plans, however, the

floorspace of the main school building appears to comprise approximately 1,700sqm. The application form sets out that the proposed cabin comprises approximately 17sqm, however, based on the indicative plans it appears that the proposed floorspace comprises approximately 38sqm. Evidently, the floorspace of the proposed cabin would not exceed 25% of the main school building (which would be approximately 425sqm), or 250sqm. As such, the proposals would accord with part a.

"(b) in the case of a college, university, prison or hospital building, if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;"

The submitted plans are not accurately scaled and the proposed location of the log cabin is approximate. It is however considered that the cabin would be more than 5m from the curtilage boundary of the school. For example, the building would be approximately 17m from the eastern boundary of the school. The proposal would therefore accord with part b).

"(ba) in the case of a school, where any land adjacent to the site is used for a purpose within Part C of the Schedule to the Use Classes Order (residential purposes), if any part of the proposed development is within 5 metres of the boundary of the curtilage of that residential land;"

There are dwellings to the east of the site, however, as set out above the proposed cabin would not be within 5m of the boundary. The proposal would therefore accord with part ba).

(c) if, as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used;

The proposed cabin is relatively small and the school contains a large area as a playing field, approximately the size of three or four football pitches. As such, the proposed development would not prevent the use of a playing field and therefore accords with part c.

"(d) if the height of any new building erected would exceed
(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or
(ii) in all other cases, 6 metres;"

The proposed cabin is more than 5m from the boundary of the school, and as such the cabin can be up to 6m in height. Although the submission is not supported by accurately scaled elevation plans, according to the application form the building would not be taller than 4m.

"(da) if the height of any rooftop structure would exceed 1.5 metres;"

Based on the submitted information, it does not appear that any rooftop structures are proposed. As such, the proposal would accord with part da).

"(e) if the height of the building as extended or altered would exceed
(i) if within 10 metres of a boundary of the curtilage of the premises, the lesser of the height of the building being extended or altered or 5 metres; or
(ii) in all other cases, the height of the building being extended or altered;"

The proposed development is for a cabin rather than an extension and therefore part e) is not relevant.

(f) if the development would be within the curtilage of a listed building;"

The development would not be within the curtilage of a listed building.

"(g) unless
(i) in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;
(ii) in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services;
(iii) in the case of prison buildings
(aa) the predominant use of the existing buildings on the premises is for the confinement of prisoners; and
(bb) in the case of a closed prison, the development does not involve the erection, extension or alteration of any building beyond the perimeter as it stood on the relevant date."

Only part g)i) is relevant in this case. The predominant use of the buildings within the site is for education. Therefore, the proposal accords with part g.

Paragraph M.2 sets out the condition that development under Class M must conform to.

"(a) the development is within the curtilage of an existing school, college, university, prison or hospital;"

It is considered that the cabin would be within the curtilage of the existing school. The proposal therefore would accord with part a).

"(b) the development is only used as part of, or for a purpose incidental to, the use of that school, college, university, prison or hospital;"

The proposed cabin would be used as a reading room and as such the use would be incidental to the main school. The proposal therefore would accord with part b).

"(c) any new building erected is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the original school, college, university, prison or hospital buildings;"

The site does not comprise article 2(3) land. Part c is therefore not relevant.

"(d) any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered;"

The proposal is not for an extension. Part d is therefore not relevant.

"(e) where proposed development under Class M relates to the erection, extension or alteration of a school building that results in an increase in the school's published admission number, the developer must, within a period of six months starting with the date the development is completed, submit to the local planning authority a travel plan for the site;"

The applicant has confirmed that the proposed development would not include the school's published admission number.

Parts f), g) and h) are not relevant as the proposal is not for a university building.

Part i) is not relevant as the proposal is not for an open prison building.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

The proposed development is considered to comprise permitted development that is allowed by Schedule 2, Part 7, Class M of the GPDO. A full planning application is therefore not required.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under delegated authority.